

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 6905/2023

GAIL (INDIA) LIMITED

APPELLANT(s)

VERSUS

NATIONAL GREEN TRIBUNAL & ORS.

RESPONDENT(s)

O R D E R

During the course of submissions, learned Solicitor General pointed out that pursuant to the interim order dated 25.07.2023 there has been implementation of the laying of the pipeline with regard to 255 meters out of a total 29 kms. in the CRZ Zone. That when the aforesaid interim order was passed, there was only a stay of the impugned notification dated 19.02.2021 passed by the Ministry of Environment, Forest and Climate Change (MOEF). However, the High Court has recently quashed the said notification but the fact remains that the pipeline has already been laid. Having regard to the aforesaid facts appropriate orders may be made.

2. Learned counsel for the Tamil Nadu Pollution Control Board submitted at the outset that striking down of the notification dated 19.02.2021 is a subject matter of appeal before this Court. Secondly, compliances that have to be made by the appellant herein despite the permission being granted by the order dated 25.07.2023 would have to be made by the appellant herein.

3. He further submitted that all other statutory compliances would have to be made by the appellant herein.

4. Learned counsel for the respondent-Central Pollution Control Board (CPCB) submitted that having regard to the submissions made at the bar appropriate orders may be made.

5. We have perused the interim order dated 16.10.2023 passed by this Court. For ease of reference, the said interim order is extracted as under:

“Delay condoned.

Learned Solicitor General has drawn our attention to the minutes of the Meeting of the Expert Appraisal Committee (CRZ) held on 26.09.2023 and particularly to paragraph 16 of Agenda 3.3, which reads as under -

“16. Accordingly, the proposal has been examined by EAC (CRZ) in the present meeting. After detailed deliberation, the Committee suggested the proponent to submit the environmental or ecological damage assessed, Compensatory Conservation Plan (CCP) and Community Resource Augmentation Plan (CRAP) with the recommendation of TNSCZMA as per OM dated 19/02/2021. Accordingly, the Committee deferred the proposal for want of essential documents required as per OM dated 19/02/2021 issued under CRZ Notification.”

He further pointed out that Office Memorandum dated 19.02.2021 issued under the CRZ notification referred to above is a subject matter of consideration by the Madras High Court and interim order of stay of the said Notification granted by the Madras High Court has been stayed by this Court by order dated 04.09.2023.

Learned Solicitor General further pointed out that as far as O.M. dated 19.02.2021 is concerned, which is also the subject matter of consideration by the Bombay High Court the same being stayed has also been challenged by the Union of India before this Court and notice has been issued in the said case.

However, since the project in question is in the State of Tamil Nadu, therefore, the Madras High Court's interim order which has been stayed by this Court would apply to the facts of the present case.

In view of the stay of the Madras High Court Order being granted by this Court on 04.09.2023, the appellant may be permitted to proceed with the project in as much as out of 29 kms. of the pipe line being laid only 255 mtrs. is the subject matter of controversy and, therefore, on the strength of the interim order of this Court, the appellant/GAIL India Ltd. may be permitted to use the pipe line, which has already been laid and the order of the Bombay High Court which has stayed O.M. dated 19.02.2021 may not be an impediment for utilising the said pipe line.

Shri M.F. Philip, learned counsel appearing for Tamil Nadu Pollution Control Board did not deny the contents of the factual submissions made by learned Solicitor General and he also admitted that the project in question and, more particularly, the pipe line in question is within the territorial limits of State of Tamil Nadu and that the Madras High Court has the jurisdiction to consider the correctness or otherwise of O.M. dated 19.02.2021.

He further agreed to the fact that the said O.M., which was stayed by the Madras High Court has been challenged before this Court and by order dated 04.09.2023, there is an interim stay granted by this Court of the interim order of stay of the O.M. dated 19.02.2021 granted by the Madras High Court.

Having regard to the aforesaid peculiar facts and circumstances of the present case and bearing in mind that what is in controversy is now only 255 mtrs. of the pipe line which has already been laid and not

been utilised, which is part of 29 kms. and, therefore, valuable natural gas is not being transmitted through the pipe line and is being released to the atmosphere and therefore lost as a resource, we find that in the instant case, permission ought to be given to the appellant herein to make use of the 255 mtrs. of pipe line which has already been laid. This is by bearing in mind that 255 mtrs. of the pipe line is part of the 29 kms. of the pipe line and, therefore, to use the entire extent of 29 kms. This order is made particularly having regard to the interim order dated 04.09.2023 passed by this Court.

It is also to be noted that paragraph 16 extracted above states that the project proponent, i.e., appellant herein has to submit Compensatory Conservation Plan (CCP) and Community Resource Augmentation Plan (CRAP). The same shall also be adhered to by the appellant, within the earliest possible time."

6. The said interim order was passed at a point of time when the notification of the Central Government was stayed by the Madras High Court by order dated 04.09.2023. It is only recently that the said notification has been set aside by the Madras High Court and the judgment of the said High Court is in challenge before this Court. However, the fact remains that pursuant to the order dated 16.10.2023, the appellant herein has laid the pipeline to an extent of 255 mtrs. out of 29 kms. and has completed the laying of the entire pipeline for the purpose of transmission of L.P.G. (Liquefied Petroleum Gas).

7. In the circumstances, we find that this appeal would not call for any further consideration on merits.

8. However, we direct that the appellant herein shall comply with all statutory requirements which have to be complied with despite the implementation of the order dated 16.10.2023 insofar as the laying of 255 mtrs. of the pipeline is concerned in accordance with law.

9. It is observed that this appeal is disposed of having regard to the peculiar facts of this case.

Pending application(s), if any, shall stand disposed of.

....., J.
(B.V. NAGARATHNA)

....., J.
(PRASANNA B. VARALE)

NEW DELHI;
MARCH 19, 2025

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO(S). 6905/2023

GAIL (INDIA) LIMITED

Appellant(s)

VERSUS

NATIONAL GREEN TRIBUNAL & ORS.

Respondent(s)

(IA No. 93902/2023 - EXEMPTION FROM FILING O.T.
IA No. 93901/2023 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES
IA No. 93904/2023 - PERMISSION TO FILE LENGTHY LIST OF DATES
IA No. 93906/2023 - STAY APPLICATION)

Date : 19-03-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE PRASANNA B. VARALE

For Appellant(s) : Mr. Tushar Mehta, SG
Mr. N. L. Ganapathi, AOR
Mr. Digvijay Dam, Adv.

For Respondent(s) Mr. K M Nataraj, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Mr. Shailesh Madiyal, Adv.
Mr. Siddhanth Kohli, Adv.
Mr. Chinmayee Chandra, Adv.
Mr. Sharath Nambiar, Adv.
Mr. Sourav Roy, Adv.

Mr. Avijit Roy, AOR

Mr. M.f. Philip, Adv.
Ms. Purnima Krishna, AOR
Mr. Karamveer Singh Yadav, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is disposed of in terms of the signed order
which is placed on the file.

Pending application(s), if any, shall stand disposed of.

(RADHA SHARMA)
ASTT. REGISTRAR-cum-PS

(DIVYA BABBAR)
COURT MASTER (NSH)